



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,690	04/09/2003	Roger Biel	CL/V-30785A	5765
31781	7590	06/17/2005	EXAMINER	
CIBA VISION CORPORATION PATENT DEPARTMENT 11460 JOHNS CREEK PARKWAY DULUTH, GA 30097-1556			PUNNOOSE, ROY M	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,690

Applicant(s)

BIEL ET AL.

Examiner

Roy M. Punnoose

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/13/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Request for Continued Examination

1. Applicant's Request for Continued Examination filed on May 13, 2005 is acknowledged.
2. Applicant is advised that the Notice of Allowance mailed on February 11, 2005 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.
3. The Notice of Allowance mailed on February 11, 2005 is vacated in view of new prior-art documents discovered by the Examiner.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross, III (US_5719,669) in view of Davis, (US_5,828,446).
6. Claims 1 and 7 are rejected because:
 - A. Ross, III (Ross hereinafter) discloses an apparatus comprising a container 44 (see Figure 2), a monochromatic illuminating device 34 having a predetermined

wavelength, a condenser lens 38 and a CCD camera (see col.2, lines35-38) for measuring various parameters (see abstract) of ophthalmic lenses so that quality of the lenses can be determined. However Ross does not teach the use of a high-resolution camera in an apparatus for measuring various parameters of contact lenses so that quality of said lenses can be determined.

B. Davis discloses the use of a high resolution camera (see col.10, lines 28-32) in an apparatus for measuring various parameters of contact lenses so that quality of the lenses can be determined.

C. In view of Davis' teaching, it would have been obvious to one of ordinary skill in the art to incorporate a high-resolution camera into Ross' apparatus due to the fact that such a combination would provide an apparatus that can more accurately measure optical parameters of contact lenses so that quality of said lenses can be determined.

7. Claims 2, 4 and 5 are rejected because In view of Ross' teaching of using IR wavelength range (see col.4, line 59) to measure optical parameters of lenses, it would have been obvious to one of ordinary skill in the art to select any particular wavelength in said range to measure optical parameters of lenses.

8. Claims 3 and 13 are rejected because Davis teaches the use of an LED (see col.4, line 61) in his apparatus.

9. Claims 6 and 14-17 are rejected because in view of Ross' teaching of the use of a filter (see col.8, line 59 - col.9, line 2) it would have been obvious to one of ordinary skill in the art to have any type of filter to be placed in front of the CCD camera to filter out

Art Unit: 2877

unwanted wavelength(s) of light to more accurately measure the parameters of the contact lenses.

10. Claims 8-10, 18-20 are rejected because in view of Ross' teaching of placing the CCD camera in various azimuthal positions (see col.7, lines 27-34) it is obvious to one of ordinary skill in the art that x-y or x-y-z cradle is being used in Ross' apparatus.

11. Claim 11 is rejected because in view of Ross' teaching of the use of frame grabber and image processing algorithms/software (see col.7, lines 35-51), it is obvious to one of ordinary skill in the art that Ross' lens checking apparatus comprises a CCD camera that is linked to a computer, image taken by the CCD camera is stored in the computer and testing/analyzing is done by automatic image analysis software.

12. Claim 22 is rejected because Davis teaches the use of a transparent container to receive the contact lens (see Figure 7).

Information Disclosure Statement

13. Acknowledgement is made of the I.D.S. submitted by the applicant on May 13, 2005.

14. The subject matter and some of the claims of the instant application are found in Ross, III et al (US_6,577,387 B2). However, Ross's patent has a filing date of Dec.29, 2000, which is after the claimed priority date of the instant application.

15. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

Art Unit: 2877

Conclusion

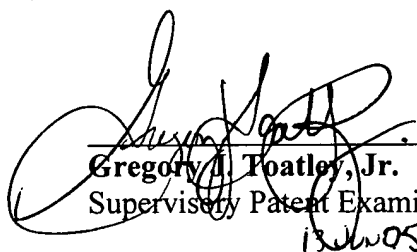
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gregory J. Toatley, Jr.** can be reached on **571-272-2800 ext.77**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roy M. Punnoose
Patent Examiner
Art Unit 2877
June 12, 2005




Gregory J. Toatley, Jr.
Supervisory Patent Examiner
13 JUN 05